REMARKS

This Supplemental Reply is intended to be a complete response to the Office Action mailed on October 31, 2005. Remarks previously submitted are represented herein such that this Supplemental Reply can replace the previous submitted Reply filed January 25, 2006.

Claims 1-8 and 39-51 are currently pending in the subject application and are presently under consideration. Claim 51 has been newly added herein to emphasize various novel features of the subject invention. A complete listing of the claims showing the changes made can be found at pages 2-6 of this Reply.

Applicant's representative kindly thanks the Examiner for the courtesies extended during a telephonic interview conducted on January 19, 2006. The substance of the interview detailed potentially allowable subject matter recited in the subject claims relating to notifying a seller when buyer criteria does not match seller criteria. No agreement was reached.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-8 and 39-50 Under 35 U.S.C. §103(a)

Claims 1-8 and 39-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fraser (U.S. 5,664,115). Withdrawal of this rejection is respectfully requested for at least the following reasons.

Fraser fails to disclose, teach or suggest each and every feature set forth in the subject claims.

> To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. ***Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.*** *See* MPEP §706.02(j). The teaching or

> suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicant's claimed invention relates, among other things, to a multiple criterion buying and selling model that can correlate criteria defined by a buyer with the criteria defined by the sellers. The sellers of a particular good or service can define a set of minimum inputs and other buying criteria (*see* page 11, lines 4-7; page 16, lines 15-21; Fig. 8b, element 303), while the buyers can enter criteria that is important to them, of which the sellers may not have listed in there own criteria, or even be aware it would be of interest to buyers (*see* page 2, lines 24-25). Hence, the system can inform sellers of buyers' input criteria that the sellers did not list as their own criteria. (*See* page 11, lines 13-15). In particular independent claim 1 (and similarly independent claims 40, 47 and 50) recites, "notifying the seller of the particular product or service ***when buyer defined criteria does not match seller defined criteria***." Fraser does not teach or suggest these features.

Rather, Fraser relates to an interactive computer system to match buyers and sellers. In particular, Fraser allows buyers to input selection criteria which are then searched against seller listings. The search results are displayed to the buyer, and the buyer is then asked if additional information is desired about any of the items displayed in the search results. If so, the buyer provides contact information and qualifications to the seller. (*See* col. 9, ll. 8-26). Accordingly, Fraser does not provide for notifying the seller of the particular product or service ***when buyer defined criteria does not match seller defined criteria***. Instead, the reference notifies the seller ***when a buyer requests additional information***.

More particularly, Fraser is silent with regard to non-matching criteria and expressly discloses that a seller will only be notified when: 1) the buyer requests such, and 2) the selection criteria match. (*See* col. 9, ll. 33-34, "...forward the buyer's information to the seller of the matching item," *See also* col. 9, ll. 55-57). Further, if selection criteria do not match, the listing is not displayed in the results and the seller cannot be notified because the buyer will not be given the option of requesting additional

information. Thus, Fraser inherently prevents notifying the seller of the particular product or service ***when buyer defined criteria does not match seller defined criteria.*** Accordingly, this rejection of independent claims 1, 40, 47 and 50 as well as all claims that depend there from should be withdrawn.

II. Rejection of Claims 1-8 and 39-50 Under 35 U.S.C. §103(a)

Claims 1-8 and 39-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Official Notice. Withdrawal of this rejection is respectfully requested for at least the following reasons.

Official Notice fails to disclose, teach or suggest each and every feature set forth in the subject claims. In particular, the Examiner argues at page 3 of the Office Action that the subject claims are obvious over common knowledge bartering that goes on between a car dealer and a car buyer such that the distribution of a car to a specific destination with all the attendant financing fully encompasses applicant's claim language. Applicant's representative respectfully disagrees and traverses the aforementioned Official Notice, requesting that the Examiner cite a reference in support of this position pursuant to MPEP §2144.03 if the rejection of the claim is to be maintained.

This Official Notice is insufficient to read on the instant claims because, *inter alia*, the Examiner's example expressly indicates that *communication* may transpire over a telephone or a computer network, not that the telephone or computer network perform the method. For example, independent claim 1 recites, "at least one computer executing instructions ***for carrying out a method***," whereas in the Examiner's example the telephone or computer network only carries out the *communication*. It is readily apparent that Official Notice lacks the benefits inherent in the claims and described in the specification (*e.g.*, efficiency, speed, mitigating human error, providing broader markets, ...). Moreover, the Examiner's analysis in connection with the Official Notice applies equally to Fraser (U.S. 5,664,115), that is, common knowledge bartering between a car dealer and a car buyer, employing a telephone or computer network for communication fully encompasses the claims. Hence, Fraser provides *per se* evidence that this Official Notice is insufficient, and, thus, impermissibly applied to applicant's claims. Accordingly, this rejection should be withdrawn.

III. New Claim 51

New claim 51 has been added for consideration and includes acts similar to one or more claims filed with the application; and, thus, does not raise issues requiring further search or effort on behalf of the Examiner. This claim is presented to further emphasize various novel aspects of the subject invention.

CONCLUSION

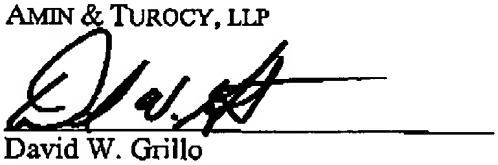
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [Ref: GEDP106US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



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